

By: Representative Crawford

To: Education

HOUSE BILL NO. 1487

1 AN ACT TO AMEND SECTION 41-23-37, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT A CHILD WILL BE EXEMPT FROM THE REQUIREMENT TO
3 HAVE ANY SPECIFIC VACCINATION IN ORDER TO ATTEND A SCHOOL OR
4 POSTSECONDARY EDUCATIONAL INSTITUTION IF THE CHILD'S PARENT OR
5 GUARDIAN SUBMITS TO THE SCHOOL OR POSTSECONDARY EDUCATIONAL
6 INSTITUTION A LETTER OR AFFIDAVIT THAT DOCUMENTS WHICH REQUIRED
7 VACCINATIONS HAVE BEEN GIVEN, AND WHICH VACCINATIONS HAVE NOT BEEN
8 GIVEN ON THE BASIS THAT THEY ARE CONTRARY TO HIS OR HER RELIGIOUS,
9 PHILOSOPHICAL OR CONSCIENTIOUS BELIEFS; TO PRESCRIBE THE CONTENT
10 TO BE INCLUDED IN THE LETTER OR AFFIDAVIT SUBMITTED TO THE SCHOOL
11 DISTRICT, SCHOOL OR POSTSECONDARY EDUCATIONAL INSTITUTION OF
12 ENROLLMENT; TO AMEND SECTION 43-20-8, MISSISSIPPI CODE OF 1972, TO
13 AUTHORIZE EXEMPTIONS FROM THE IMMUNIZATION REQUIREMENTS LICENSED
14 CHILD CARE FACILITIES WHEN A PARENT OR LEGAL GUARDIAN OBJECTS TO
15 IMMUNIZATION OF THE CHILD ON THE GROUNDS THAT THE IMMUNIZATION
16 CONFLICTS WITH THE RELIGIOUS, PHILOSOPHICAL OR CONSCIENTIOUS
17 BELIEFS OF THE PARENT OR GUARDIAN; TO PROVIDE THAT A PARENT OR
18 GUARDIAN MUST FIRST FURNISH THE RESPONSIBLE OFFICIAL OF THE
19 FACILITY AN AFFIDAVIT IN WHICH THE PARENT OR GUARDIAN SWEARS OR
20 AFFIRMS THAT THE IMMUNIZATION REQUIRED CONFLICTS WITH THE
21 RELIGIOUS, PHILOSOPHICAL OR CONSCIENTIOUS BELIEFS OF THE PARENT OR
22 GUARDIAN BEFORE A CHILD IS EXEMPTED FROM IMMUNIZATION ON RELIGIOUS
23 GROUNDS; AND FOR RELATED PURPOSES.

24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

25 **SECTION 1.** Section 41-23-37, Mississippi Code of 1972, is
26 amended as follows:

27 41-23-37. (1) Whenever indicated, the State Health Officer
28 shall specify such immunization practices as may be considered



29 best for the control of vaccine preventable diseases. A listing
30 shall be promulgated annually or more often, if necessary.

31 (2) Except as provided * * * in this section, it shall be
32 unlawful for any child to attend any school, kindergarten or
33 similar type facility intended for the instruction of children
34 (hereinafter called "schools"), either public or private, with the
35 exception of any legitimate home instruction program, as defined
36 in Section 37-13-91, * * * for ten (10) or * * * fewer children
37 who are related within the third degree computed according to the
38 civil law to the operator, unless they * * * have a certificate of
39 vaccination or have submitted to the school a certificate of
40 exemption from vaccination as provided for in this section.

41 (3) (a) A letter or certificate of exemption from
42 vaccination for medical reasons may be offered on behalf of a
43 child by a duly licensed physician in any state and provided on
44 the stationery of that physician may be accepted by the local
45 health officer and presented to the school on behalf of a child
46 when, in his opinion, * * * is contraindicated for medical reasons
47 and that the exemption will not cause undue risk to the community.

48 (b) A letter or certificate of exemption from
49 vaccination for religious or philosophical beliefs may be
50 submitted to the school on behalf of a child by the child's parent
51 or guardian.



52 (c) A letter or certificate of exemption from
53 vaccination for conscientious beliefs may be submitted to the
54 school on behalf of a child by the child's parent or guardian.

55 (4) (a) No child seeking claiming an exemption authorized
56 under subsection (3) (b) shall be required to comply with the
57 requirements of this section for any specific vaccination in order
58 to attend the school, provided that the parent or guardian or
59 adult who has assumed responsibility for the child's care and
60 custody in the case of a minor, or the child seeking admission if
61 an emancipated minor, submits to the school a letter or affidavit
62 on an exemption form provided by the State Department of Health,
63 which documents the required vaccinations which have been
64 administered, and which vaccinations have not been administered on
65 the basis that they are contrary to his or her religious or
66 philosophical beliefs. The letter or affidavit must be signed by
67 the parent or guardian or emancipated minor, and which such
68 affidavit must be notarized.

69 (b) The parent or guardian or adult who has assumed
70 responsibility for the child's care and custody in the case of a
71 minor, or the child seeking admission if an emancipated minor,
72 shall submit a letter or affidavit to the school district, school
73 or postsecondary educational institution of enrollment
74 specifically stating the reasons for the philosophical and
75 religious exemption from vaccinations sought, in addition to a
76 statement as to whether the aversion is to some or all



77 vaccinations. The letter or affidavit submitted shall also
78 include, but not be limited to, the following:

79 (i) A statement that the parent or guardian who
80 has assumed responsibility for the child's care and custody, in
81 the case of a minor, or the child seeking admission if an
82 emancipated minor, has been informed by a health care practitioner
83 and school district regarding the risks and benefits of receiving
84 vaccinations or not receiving vaccinations; and

85 (ii) A statement of understanding that:

86 1. At the discretion of the State Department
87 of Health or local health officer, the unimmunized child or
88 individual may be removed from day care or school during an
89 outbreak if the child or individual is not fully vaccinated; and

90 2. The child or individual shall not return
91 to school until the outbreak has been resolved and the State
92 Department of Health or local health officer approves the return
93 to school.

94 (5) (a) No child seeking claiming an exemption authorized
95 under subsection (3) (b) on the basis of conscientious beliefs
96 shall be required to comply with the requirements of this section
97 for any specific vaccination in order to attend the school,
98 provided that the parent or guardian or adult who has assumed
99 responsibility for the child's care and custody in the case of a
100 minor, or the child seeking admission if an emancipated minor,
101 submits to the school a letter or affidavit on an exemption form



102 provided by the State Department of Health, which must be signed
103 by the parent or guardian or emancipated minor, and which such
104 affidavit must be notarized.

105 (b) A blank exemption form for conscientious beliefs
106 may be obtained by the parent or guardian of a minor child or by
107 the emancipated minor by submitting a written request for the
108 exemption form to the State Department of Health or the county
109 health department or by downloading the exemption form from the
110 website of the State Department of Health.

111 (c) The exemption form for conscientious beliefs must
112 contain a statement indicating that the parent or guardian of a
113 minor child or the emancipated minor understands the benefits and
114 risks of vaccinations and the benefits and risks of not being
115 vaccinated. In addition, it must contain a section where the
116 parent or guardian or emancipated minor can list the specific
117 vaccination or vaccinations for which the exemption applies. The
118 completed and notarized exemption form shall expire one (1) year
119 from the date signed by the parent or guardian. The parent or
120 guardian or emancipated minor must submit a new form every school
121 calendar year for which they are claiming an exemption from
122 vaccination requirements for conscientious beliefs.

123 (6) Certificates of vaccination shall be issued by local
124 health officers or physicians on forms specified by the * * *
125 State * * * Department of Health. These forms shall be the only
126 acceptable means for showing compliance with * * * the



127 immunization requirements of this section, and the responsible
128 school officials shall file the form with the child's record.

129 (7) If a child * * * who is not exempt from vaccination
130 under subsection (3), (4) or (5) of this section offers to enroll
131 at a school or postsecondary educational institution without
132 having completed the required vaccinations, the local health
133 officer may grant a period of time up to ninety (90) days
134 for * * * that completion when, in the opinion of the health
135 officer, * * * the delay will not cause undue risk to the child,
136 the school or the community. No child who is not exempt from
137 vaccination under subsection (3), (4) or (5) of this section shall
138 be enrolled without having had at least one (1) dose of each
139 specified vaccine.

140 (8) Within thirty (30) days after the opening of the fall
141 term of school (on or before October 1 of each year) the person in
142 charge of each school shall report to the county or local health
143 officer, on forms provided by the * * * State * * * Department of
144 Health, the number of children enrolled by age or grade or both,
145 the number fully vaccinated, the number in process of completing
146 vaccination requirements, and the number exempt from vaccination
147 by reason * * * of a certificate of exemption.

148 (9) Within one hundred twenty (120) days after the opening
149 of the fall term (on or before December 31), the person in charge
150 of each school or postsecondary educational institution shall
151 certify to the local or county health officer that all children



152 enrolled who are not exempt from vaccination under subsection (3),
153 (4) or (5) of this section are in compliance with the immunization
154 requirements.

155 (10) For the purpose of assisting in supervising the
156 immunization status of the children the local health officer, or
157 his designee, may inspect the children's records or be furnished
158 certificates of * * * vaccination compliance by the school or
159 postsecondary educational institution.

160 (11) It shall be the responsibility of the person in charge
161 of each school to enforce the requirements for immunization and
162 exemption from vaccination. Any child who is not exempt from
163 vaccination under subsection (3), (4) or (5) of this section is
164 not in compliance at the end of ninety (90) days from the opening
165 of the fall term must be suspended until in compliance, unless the
166 health officer * * * attributes the delay to lack of supply of
167 vaccine or some other such factor clearly making compliance
168 impossible.

169 (12) Failure to enforce provisions of this section shall
170 constitute a misdemeanor and, upon conviction, be punishable by
171 fine or imprisonment or both.

172 **SECTION 2.** Section 43-20-8, Mississippi Code of 1972, is
173 amended as follows:

174 43-20-8. (1) The licensing agency shall have powers and
175 duties as set forth below, in addition to other duties prescribed
176 under this chapter:



177 (a) Promulgate rules and regulations concerning the
178 licensing and regulation of child care facilities as defined in
179 Section 43-20-5;

180 (b) Have the authority to issue, deny, suspend, revoke,
181 restrict or otherwise take disciplinary action against licensees
182 as provided for in this chapter;

183 (c) Set and collect fees and penalties as provided for
184 in this chapter; any increase in the fees charged by the licensing
185 agency under this paragraph shall be in accordance with the
186 provisions of Section 41-3-65; and

187 (d) Have such other powers as may be required to carry
188 out the provisions of this chapter.

189 (2) Child care facilities shall assure that parents have
190 welcome access to the child care facility at all times and shall
191 comply with the provisions of Chapter 520, Laws of 2006.

192 (3) Each child care facility shall develop and maintain a
193 current list of contact persons for each child provided care by
194 that facility. An agreement may be made between the child care
195 facility and the child's parent, guardian or contact person at the
196 time of registration to inform the parent, guardian or contact
197 person if the child does not arrive at the facility within a
198 reasonable time.

199 (4) Child care facilities shall require that, for any
200 current or prospective caregiver, all criminal records, background
201 and sex offender registry checks and current child abuse registry



202 checks are obtained. In order to determine the applicant's
203 suitability for employment, the applicant shall be fingerprinted.
204 If no disqualifying record is identified at the state level, the
205 fingerprints shall be forwarded by the Department of Public Safety
206 to the FBI for a national criminal history record check.

207 (5) The licensing agency shall require to be performed a
208 criminal records background check and a child abuse registry check
209 for all operators of a child care facility and any person living
210 in a residence used for child care. The Department of Human
211 Services shall have the authority to disclose to the State
212 Department of Health any potential applicant whose name is listed
213 on the Child Abuse Central Registry or has a pending
214 administrative review. That information shall remain confidential
215 by all parties. In order to determine the applicant's suitability
216 for employment, the applicant shall be fingerprinted. If no
217 disqualifying record is identified at the state level, the
218 fingerprints shall be forwarded by the Department of Public Safety
219 to the FBI for a national criminal history record check.

220 (6) The licensing agency shall have the authority to exclude
221 a particular crime or crimes or a substantiated finding of child
222 abuse and/or neglect as disqualifying individuals or entities for
223 prospective or current employment or licensure.

224 (7) The licensing agency and its agents, officers,
225 employees, attorneys and representatives shall not be held civilly



226 liable for any findings, recommendations or actions taken under
227 this section.

228 (8) All fees incurred in compliance with this section shall
229 be borne by the child care facility. The licensing agency is
230 authorized to charge a fee that includes the amount required by
231 the Federal Bureau of Investigation for the national criminal
232 history record check in compliance with the Child Protection Act
233 of 1993, as amended, and any necessary costs incurred by the
234 licensing agency for the handling and administration of the
235 criminal history background checks.

236 (9) (a) From and after January 1, 2008, the State Board of
237 Health shall develop regulations to ensure that all children
238 enrolled or enrolling in a state licensed child care center
239 receive age-appropriate immunization against invasive pneumococcal
240 disease as recommended by the Advisory Committee on immunization
241 practices of the Centers for Disease Control and Prevention. The
242 State Board of Health shall include, within its regulations,
243 protocols for children under the age of twenty-four (24) months to
244 catch up on missed doses. If the State Board of Health has
245 adopted regulations before January 1, 2008, that would otherwise
246 meet the requirements of this subsection, then this subsection
247 shall stand repealed on January 1, 2008.

248 (b) The immunization requirements of this subsection
249 shall not apply to a child whose parent or legal guardian objects
250 to immunization of the child on the grounds that the immunization



251 conflicts with the religious, philosophical or conscientious
252 beliefs of the parent or guardian. For a child to be exempt from
253 immunization on religious grounds, philosophical or conscientious
254 beliefs, the parent or guardian must first furnish the responsible
255 official of the school or facility an affidavit in which the
256 parent or guardian swears or affirms that the immunization
257 required conflicts with the religious, philosophical or
258 conscientious beliefs of the parent or guardian.

259 **SECTION 3.** This act shall take effect and be in force from
260 and after July 1, 2023.

